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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,485	10/30/2003	Bradley G. Vernon		3153

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EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/699,485

Applicant(s)

VERNON ET AL.

Examiner

Terrell H. Matthews

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-9 and 13-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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### DETAILED ACTION

Claims 4-19 are pending in the instant application.

### *Election/Restrictions*

Claims 10-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/24/2005.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-6,9,13-14, 16,18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Damron (5408818).

Referring to claims 4-6,16,18-19. Damron discloses a "Magnetic Bar Adapted For Rakes" as claimed. See Figs. 1-3 and respective portions of the specification. Damron further discloses a magnet (20), a rake body (24) configured to contain magnets, teeth attached to the rake body (18) and a handle attached to the rake body (36) (See Col. I. 17-52). Additionally, Damron discloses a plurality of non-magnetic alloy teeth (18). It is understood the teeth are non-magnetic since Damron discloses that they could be adapted to be magnetized. (See Col. 4 I. 13-15).

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Referring to claim 9. Damron discloses that the teeth (18) are tightly bound together and rigidly attached to the handle (36) by a collar (34). (See Fig. 3 & Col. 3 l. 50-52)

Referring to claim 13-14. Damron discloses engaging a surface area with a rake body with teeth and at least one magnet and allowing Ferro-magnetic items from the surface area to collect on the rake body (See Col. 2 l. 46-48).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Damron.

Referring to claim 5. Damron discloses the invention as described in detail above. Damron does not disclose that the rake body (24) is cylindrical in shape. It would have been obvious to a person of ordinary skill in the art to modify the apparatus of Damron so that the rake body was cylindrical in shape so that it was easier to maneuver.

Claims 7-8, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Damron in view of Lantz (1927873).

Referring to claim 7-8,17. Damron discloses the invention as described in detail above. Damron does not disclose that the non-magnetic alloy is aluminum. Lantz discloses a "Non leaf holding rake" as claimed. See Figs. 1-4 and respective portions of the specification. Lantz further discloses a rake that is made out of aluminum and comprises pointed teeth that curve upwardly and forwardly in front of the rake body and extend rearwardly beneath the body that can be used in a forward or rearward direction, as well as an adjustable handle. It is also understood from Fig. 1 that the teeth are triangular in shape. Additionally, Lantz discloses that the handle can be adjusted by adjusting horizontal bolt (12) and clamping bolt (13) (See Col. 2 l. 84-88). It is understood that the handle can be detached by loosening bolts (12 & 13). It would have been obvious to a person of ordinary skill in the art to modify the apparatus of Damron to include triangular teeth that were made out of aluminum material and to make the handle detachable so that the rake was durable and lightweight for easier use and more comfort. Additionally, the handle would have been made detachable so that if the handle broke or you needed a longer extension so that it could be replaced and adapted for use in different situations.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Damron

Referring claim 15. Damron discloses the invention as described in detail above. Damron does not disclose the method of inverting the magnetic rake body so that the teeth face away from the surface area. However, it would have been obvious to a person of ordinary skill in the art that the method of inverting the rake body so that the

teeth faced away from the surface area could be performed so that you did not agitate the ground but were still able to magnetically attract ferro-magnetic particles.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conrad U.S. Patent No. 5979957 discloses a "Rolling Magnetic Rake" comprising a handle, an axle, permanent magnets, and a handle fitting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

THM



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